

Message Text

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ORIGIN EB-07

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DRAFTED BY EB/CSB/BP:WALTER B. LOCKWOOD:BT

APPROVED BY EB/CSB/BP:WALTER B. LOCKWOOD

L/EB:TTALLERICO

EA/J:DBROWN

JUSTICE:BMEYERS

----- 016254

P 082203Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

LIMITED OFFICIAL USE STATE 213103

E.O. 11652: N/A

TAGS: ETRD, JA

SUBJECT: ANTITRUST: WESTINGHOUSE/MITSUBISHI

REF: TOKYO 10650 AND PREVIOUS

1. DEPARTMENT OF JUSTICE IS IN MIDST OF PRE-TRIAL HEARINGS BEFORE FEDERAL DISTRICT COURT, SAN FRANCISCO, ON WESTINGHOUSE/MITSUBISHI ANTITRUST CASE. THE FULL TRIAL IS SCHEDULED TO GET UNDER WAY IN FEBRUARY 1976.

2. AS PREVIOUS CABLES ON THIS SUBJECT HAVE INDICATED, MR. ABE, A FORMER EMPLOYEE OF MITSUBISHI, IS A POTENTIAL WITNESS. THE EMBASSY HAS MADE SEVERAL ATTEMPTS TO OBTAIN AN INTERVIEW WITH MR. ABE, AS IS DESCRIBED IN THE AFFIDAVIT EXECUTED BY FIRST SECRETARY RUSSELL PRICKETT ON JULY 31, 1975. ABE FINALLY INFORMED THE EMBASSY THAT FOR VARIOUS REASONS HE WOULD NOT APPEAR FOR AN INTERVIEW.

3. JUSTICE ATTORNEYS INFORMED US THAT IT IS IMPORTANT THAT A MOTION BE FILED WITH THE COURT REQUESTING COOPERATION OF LIMITED OFFICIAL USE
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THE PARTIES INVOLVED (READ MITSUBISHI AND ITS ATTORNEYS) FOR THE APPEARANCE OF WITNESSES WHO MAY HAVE KNOWLEDGE RELEVANT TO THE CASE. THE AFFIDAVIT OF PRICKETT IS CONSIDERED TO BE VITAL TO THE SUCCESS OF THIS MOTION. THIS IS BASED ON THE

VIEW THAT ONE OF THE PRINCIPAL REASONS ABE DID NOT COME FORWARD WAS THAT ATTORNEYS FOR THE DEFENDANT ADVISED HIM NOT TO DO SO. THIS IS DESCRIBED IN MR. PRICKETT'S AFFIDAVIT. IT IS THE CONTENTION OF JUSTICE THAT THIS TYPE OF ADVICE BY ATTORNEYS FOR THE DEFENDANT IS UNETHICAL AND CONTRARY TO ESTABLISHED LEGAL PRACTICES. ON THE BASIS OF THIS, AND OTHER ARGUMENTS, JUSTICE SEEKS TO OBTAIN FROM THE COURT A STATEMENT WHICH REQUESTS THE LAWYERS TO DISCONTINUE THIS ACTIVITY AND WHICH URGES THE COOPERATION OF THE PARTIES IN ENCOURAGING WITNESSES, INCLUDING ABE, TO COME FORWARD.

4. AS THE EMBASSY WILL RECALL, A LETTER, APPROVED BY JUSTICE, WAS SENT TO GOJ ON APRIL 16 WHICH STATES THAT ANY STATEMENTS MADE BY ABE RELATING TO ANTITRUST PROCEEDINGS INVOLVING WESTINGHOUSE AND MITSUBISHI WOULD NOT BE INTRODUCED IN COURT. THIS LETTER IS QUOTED IN THE FIRST PAGE OF PRICKETT'S AFFIDAVIT. FILING OF THIS AFFIDAVIT WITH THE COURT, WHICH CONTAINS STATEMENTS BY ABE, COULD BE INTERPRETED AS VIOLATING THE LETTER. HOWEVER, JUSTICE CONTENTS THAT THE LETTER WAS SENT IN CONTEXT OF ANY SUBSTANTIVE STATEMENTS ABE MIGHT MAKE IN AN ACTUAL INTERVIEW (NO ACTUAL INTERVIEW HELD; ABE NEVER DISCUSSED MERITS OF CASE.). THE MOTION TO BE FILED AT THE PRE-TRIAL HEARING IS PROCEDURAL, I.E. THE AFFIDAVIT WOULD BE USED ONLY TO SUPPORT A MOTION RELATING TO THE CONDUCT OF THE ATTORNEYS AND WITNESSES IN THIS CASE. THEREFORE, JUSTICE WOULD LIKE TO INTRODUCE THE AFFIDAVIT.

5. ACTION REQUESTED: REQUEST THAT THE EMBASSY NOTIFY GOJ OF THIS MATTER. WE SUGGEST THAT THE EMBASSY SEND A LETTER WHICH BRIEFLY EXPLAINS THE QUESTION BEING RAISED AT THE PRE-TRIAL HEARING, MAKING REFERENCE TO THE EMBASSY'S PREVIOUS COMMUNICATION TO GOJ. YOUR LETTER CAN INFORM THAT JUSTICE WOULD LIKE TO INTRODUCE AN AFFIDAVIT TO THE COURT WHICH DESCRIBES THE ATTEMPTS MADE TO ARRANGE FOR AN INTER-LIMITED OFFICIAL USE
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VIEW WITH ABE, INCLUDING THE REPLIES GIVEN BY ABE TO REQUESTS FOR HIM TO PARTICIPATE IN AN INTERVIEW. YOU SHOULD EXPLAIN THAT THE AFFIDAVIT AND MOTION ARE ADDRESSED TO PURELY PROCEDURAL MATTERS. EMBASSY SHOULD STATE THAT UNLESS GOJ HAS OBJECTIONS TO THIS COURSE OF ACTION, JUSTICE INTENDS TO FILE THIS PROCEDURAL MOTION WITHIN THE NEXT SEVERAL DAYS. IF POSSIBLE, IT IS REQUESTED THAT NOTIFICATION TO GOJ BE MADE IMMEDIATELY AND REPLY FROM EMBASSY AS TO RESULTS BE MADE BY SEPTEMBER 16. KISSINGER

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<< END OF DOCUMENT >>

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Margaret P. Grafeld
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